

11th Cir. R. 33-1 Appellate Conference Program.

(a) Filing Civil Appeal Statement.

A Civil Appeal Statement is required in all civil cases, except as provided in section (a)(3) below.

(1) Civil appeals from the United States district courts. The clerk of the district court shall mail an Eleventh Circuit Civil Appeal Statement form to the appellant(s) when the notice of the filing of a notice of appeal is mailed pursuant to FRAP 3(d). The appellant(s) shall file with the clerk of the court of appeals, with service on all other parties, an original and one copy of a completed Civil Appeal Statement within 21 days after filing the notice of appeal in the district court. The completed Civil Appeal Statement shall set forth information necessary for an understanding of the nature of the appeal and shall be accompanied by the portion of the district court record described in 11th Cir. R. 33-1(b)(1). Any appellee may file an original and one copy of a response with the court of appeals within seven days of the receipt of the completed Civil Appeal Statement and shall serve a copy of the response on all other parties.

(2) Review of administrative agency orders and appeals from the United States Tax Court. The clerk of the court of appeals shall mail to the appellant(s)/petitioner(s) an Eleventh Circuit Civil Appeal Statement form, which will accompany the notification to the parties that the case has been docketed. The appellant(s)/petitioner(s) shall file with the clerk of the court of appeals, with service on all other parties, an original and one copy of a completed Civil Appeal Statement within 21 days from the date the form was transmitted by the clerk of the court of appeals. The completed Civil Appeal Statement shall set forth information necessary for an understanding of the nature of the appeal or petition and shall be accompanied by the portion of the record described in 11th Cir. R. 33-1(b). Any appellee/respondent may file an original and one copy of a response with the court of appeals within seven days of the receipt of the completed Civil Appeal Statement and shall serve a copy of the response on all other parties.

(3) A Civil Appeal Statement is not required to be filed in (1) appeals or petitions in which the appellant/petitioner is proceeding without assistance of counsel or in which the appellant/petitioner is incarcerated and (2) appeals from habeas corpus actions filed under 28 U.S.C. § 2241, 2254, and 2255.

(4) Availability of Civil Appeal Statement forms. Copies of the Civil Appeal Statement form are available in the clerk's office of each district court within the Eleventh Circuit and may also be obtained from the clerk of the court of appeals.

(b) Portions of Record to Accompany Completed Civil Appeal Statement.

(1) Civil appeals from United States district courts and the United States Tax Court. The appellant shall file with the completed Civil Appeal Statement two copies of the following portions of the district court or tax court record:

- (i) the judgment or order appealed from;
- (ii) any other order or orders sought to be reviewed, including, in

bankruptcy appeals, the order(s) of the bankruptcy court appealed to the district court;

(iii) any supporting opinion, findings of fact, and conclusions of law filed by the court;

(iv) the magistrate judge's report and recommendation, when appealing a court order adopting same in whole or in part; and

(v) findings and conclusions of and administrative law judge, when appealing a court order reviewing and administrative agency determination involving same.

(2) Review of administrative agency orders. The petitioner shall file with the completed Civil Appeal Statement two copies of the following portions of the agency record:

(i) the agency docket sheet, or index of documents comprising the record, if one exists;

(ii) any order or orders sought to be reviewed; and

(iii) any supporting opinion, findings of fact, and conclusions of law filed by the agency, board, commission, or officer.

(c) Conference.

(1) An active or senior judge of the court of appeals or a conference attorney appointed by the court may direct counsel for the parties in a case to attend one or more conferences, in person or by telephone. The topics addressed at the conference(s) include the possibility of settlement, simplification of the issues, and in cases in which oral argument is to be heard, the issues to be argued, sequence of and time permitted for oral argument, as well as any other matters the judge or conference attorney determines may aid in the disposition of the appeal. Parties may also be permitted or required to attend. Such conference(s) shall be conducted by the judge or conference attorney. Prior to a conference, counsel shall secure the broadest authority possible to settle the appeal or agree on any case management matters. Counsel for any party may also request a conference in a case if he or she thinks it would be helpful. Such requests will not be revealed by the court or the conference attorney to opposing counsel without permission of the requesting party.

(b) A judge who participates in a conference or becomes involved in settlement discussions pursuant to this rule will not sit on a judicial panel that deals with that case.

(3) Statements and comments made during a conference and subsequent discussions related thereto shall be confidential, except to the extent disclosed by the conference order entered pursuant to 11th Cir. R. 33-1(d), and shall not be disclosed by the conference judge or conference attorney or by counsel in briefs or argument to the court.

(d) Conference Order. At the conclusion of the conference(s) an order may issue controlling the subsequent course of the appeal.

(e) Filing Deadlines. The filing of a Civil Appeal Statement or the scheduling of a conference does not extend the time for ordering any necessary transcript (pursuant to 11th Cir. R. 10-1) or for filing briefs (pursuant to 11th Cir. R. 31-1). Such time may be extended to comply with these rules if there is a substantial probability the case will settle and the extension will prevent the unnecessary expenditure of time and resources by counsel, the parties, and the court.

(f) Noncompliance Sanctions.

(1) If the appellant or petitioner has not taken the action specified in paragraph (a) of this rule within the time specified, the appeal or petition may be dismissed by the clerk of court of appeals after appropriate notice pursuant to 11th Cir. R. 42-1.

(2) Upon failure of a party of attorney to comply with the provisions of this rule or the provisions of a conference order, the court may assess reasonable expenses caused by the failure, including attorney's fees; assess all or a portion of the appellate costs; dismiss the appeal; or take such other appropriate action as the circumstances may warrant.